

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 22-21160-CIV-GOODMAN
[CONSENT]

ARCHER WESTERN - DE MOYA
JOINT VENTURE,

Plaintiff,

v.

ACE AMERICAN INSURANCE CO.

Defendant.

ORDER ON DEFENDANT'S PRIVILEGE CLAIMS

In this declaratory judgment case concerning insurance coverage, Plaintiff challenges Defendant's decision to withhold certain documents based on attorney-client privilege and/or the work product doctrine. The Undersigned previously issued an Order articulating the Undersigned's view on the law surrounding both principles, requiring the parties to meet and confer to see if any disputes remained, and providing instructions on how Plaintiff should submit any remaining disputes to the Court. [ECF No. 64].

Plaintiff filed a notice challenging Defendant's privilege claims for 16 sets of documents. [ECF No. 72-1]. Defendant filed the challenged documents under seal. [ECF Nos. 75-76]. The Undersigned has reviewed the challenged documents, as well as Defendant's privilege log [ECF No. 72-1], and finds that only three of the challenged documents are **not** protected by the privilege Defendant asserts as a basis for withholding production:

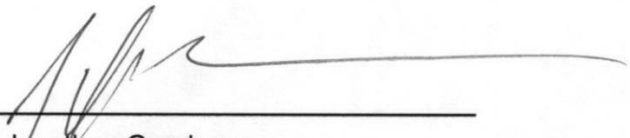
CHUBB 000216: This is an email sent from a claims director to outside counsel about additions that should be made to a document. The email was sent on July 16, 2021, which is four months before Defendant issued to Plaintiff its denial letter on November 18, 2021. The contents of the email concern business issues, not legal advice, and the email was not sent in anticipation of litigation. Therefore, neither privilege applies.

CHUBB 000362: This is an email between a claims director and claims leader discussing a draft denial of coverage letter and an engineering report. Defendant's basis for withholding this email is only the work product doctrine. Because this document was created as part of the claims process and not in anticipation of litigation, the work product doctrine does not apply.

CHUBB 000373: This is an email between a claims director and claims leader discussing a draft denial of coverage letter and an engineering report. Defendant's basis for withholding this email is only the work product doctrine. Because this document was created as part of the claims process and not in anticipation of litigation, the work product doctrine does not apply.

Defendant shall produce to Plaintiff these three documents by March 1, 2023.

DONE AND ORDERED in Chambers, in Miami, Florida, on February 24, 2023.


Jonathan Goodman
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

All counsel of record